

CHAPTER 300 CERTIFICATION REQUIREMENTS

PART Soil 301 APPLICATION REQUIREMENTS

Soil 301.01 Application Process.

(a) A person wishing to become certified as a soil or wetland scientist shall submit an application form provided upon request by the board containing the information specified in Soil 301.02 and 302.02, including the application fee specified in Soil 301.04.

(b) The board shall acknowledge receipt of an application within 60 days of receipt and shall notify the applicant of any deficiencies in the application. Failure to remedy the deficiencies within 60 days shall result in dismissal of the application. An application shall be considered on file with the board when all deficiencies are corrected.

(c) If the application is denied, the applicant shall be provided an opportunity to request a hearing for reconsideration pursuant to Soil 213 on the deficiency issues identified by the board.

Any such request shall be made in writing and received by the board within 30 days of the receipt of the notification of denial.

(d) Applications about which there has been no communication by the applicant to the board for one year shall be destroyed.

Soil 301.02 Application Forms.

(a) The applicant for certification as a soil scientist or wetland scientist shall supply the following on the application:

(1) General information about the applicant, including his or her:

- a. Name and any names previously used;
- b. Written signature;
- c. Residential address;
- d. Present position;
- e. Organization and title;
- f. Business address;
- g. Business and personal telephone numbers;
- h. Place and date of birth;
- i. E-mail address;
- j. Current certification/registration information as a soil scientist or wetland scientist;

k. Whether the applicant has ever been convicted of any felony, or misdemeanor that has not been annulled by a court pursuant to RSA 651:5 and if not annulled, the name of the court in which the conviction occurred, the details of the offense and the date of conviction and the sentence imposed; and

l. The applicant's social security number required pursuant to RSA 161- B:11, VI-a;

(2) Information regarding the applicant's registration/certification in other states, including:

- a. The first state certified/ registered in;
- b. The certificate number and date certified;
- c. Whether certified by examination;
- d. Whether the certificate is now in force, and if not, the reasons why certificate is not in force; and

e. Whether the applicant has ever been denied registration, certification or licensure as a soil or wetland scientist or disciplined by this board or another soil or wetland scientist board in any other state or country and if so, an explanation of the circumstances;

(3) A list of current memberships in professional or scientific associations, including:

- a. The name of organization;
- b. The location;
- c. The applicant's grade of membership; and
- d. Date of membership;

(4) A transcript of college or university credits obtained, including:

- a. The name of institution;
- b. Years attended;
- c. Graduation date,
- d. Credits completed; and
- (e) The degree awarded.

(5) A list of home study and correspondence school courses related to soil science or wetland science completed;

(6) Evidence of professional experience related to soil science or wetland science, including:

- a. Name and address of employer;
- b. Title of position;
- c. Dates of employment;
- d. Name and present address of someone familiar with each position;
- e. Summary of soil or wetland plans; and
- f. As applicable, additional information supplied on the supplemental experience record form in the same format as number 6 of the certification application;

(7) The names, complete addresses, occupation and business relationship with applicant of 5 references, not related to the applicant with 2 references being soil scientists or if applying for wetland scientist certification 2 shall be wetland scientists; and

(8) Applicant's signature completed under oath or affirmation.

(b) The applicant for apprentice soil scientist or apprentice wetland scientist shall supply the following on or with the application:

(1) General information about the applicant, including his or her:

- a. Name and any names previously used;
- b. Written signature;
- c. Residential address;
- d. Present position;
- e. Organization and title;
- f. E-mail address;
- g. Business address;
- h. Business and personal telephone numbers;
- i. Place and date of birth; and

(2) Whether the applicant has ever been convicted of any felony, or misdemeanor that has not been annulled by a court pursuant to RSA 651:5 and if not annulled, the name of the court in which the conviction occurred, the details of the offense and the date of conviction and the sentence imposed.

(3) Information regarding the applicant's registration/certification in other states, including:

- a. The first state certified/ registered in;

- b. The certificate number and date certified;
 - c. Whether certified by examination;
 - d. Whether the certificate is now in force, and if not, the reasons why certificate is not in force; and
 - e. Whether the applicant has ever lost registration, certification or licensure as a soil or wetland scientist or disciplined by this board or another soil or wetland scientist board in any other state or country and if so, an explanation of the circumstances;
- (4) A list of current memberships in professional or scientific associations, including:
 - a. The name of organization;
 - b. The location; and
 - c. The applicant's grade of membership, and date of membership;
 - (5) A transcript of college or university credits obtained including:
 - a. The name of institution;
 - b. Years attended;
 - c. Graduation date; and
 - d. Credits completed;
 - (6) A list of home study and correspondence school courses related to soil science or wetland science completed;
 - (7) Evidence of professional experience related to soil science or wetland science as indicated on the certification application;
 - (8) As applicable, additional professional experience information supplied on the supplemental experience record form;
 - (9) Names and certificate numbers of apprentice supervisors; and
 - (10) Applicant's signature.

Soil 301.03 Fees. All fees shall be in the form of cash, credit card, money order, bank draft, or check made payable to: "Treasurer, State of New Hampshire."

Soil 301.04 Application/Certification Examination Fees. The fees shall be as follows:

- (a) Application fee for certification as a soil scientist shall be \$125.00;
- (b) Application fee for certification as a wetland scientist shall be \$125.00;
- (c) The certification fee shall be \$50.00;
- (d) The application fee for certification as a soil scientist apprentice shall be \$75.00;

- (e) The application fee for certification as a wetland scientist apprentice shall be \$75.00;
- (f) The fee for the field examination for certification as a soil scientist shall be \$200.00;
- (g) The fee for the written examination for certification as a soil scientist shall be \$125.00;
- (h) The fee for the field examination for certification as a wetland scientist shall be \$200.00;
- (i) The fee for the written examination for certification as a wetland scientist shall be \$125.00;
- (j) The biennial renewal fee shall be \$120.00; and
- (k) If the renewal is not received by the date of expiration there shall be a late fee of 20 percent per month.

Soil 301.05 Replacement Fee. The fee for replacement of lost or mutilated certificate shall be \$50.00.

Soil 301.06 Information from References for Soil Scientist Candidates.

(a) Information from references shall be requested by the board on forms provided by the board as specified in RSA 310-A:86.

(b) The application shall include:

- (1) Applicant's name;
- (2) Reference's name and address; and
- (3) References for soil scientist candidates which provide a brief description of the knowledge of the soil scientist applicant's qualifications in soil classification and mapping qualifications; and
- (4) The signature of the reference, and the date signed.

(c) The board shall use as references any individuals, companies, or institutions whose names appear in any part of the application form.

Soil 301.07 Information from References for Wetland Scientist Candidates.

(a) Information from references shall be requested by the board on forms provided by the board as specified in RSA 310-A:86.

(b) The application shall include:

- (1) Applicant's name;
- (2) Reference's name and address and,
- (3) References for wetland scientist candidates which provide a brief description of the knowledge of the wetland scientist applicant's qualifications in wetland delineation and documentation; and

(4) The signature of the reference, and date signed.

(c) The board shall use as references any individuals, companies, or institutions whose names appear in any part of the application form.

Soil 301.08 Additional References. The board shall require of the applicant the names and addresses of additional references if the original references are unclear, incomplete or contradictory.

PART Soil 302 QUALIFICATION OF APPLICANTS

Soil 302.01 Candidates Requirements.

(a) Candidates for certification as a soil scientist shall meet the requirements established by RSA 310-A:84, I, and II before a certificate shall be granted which shall include not having been convicted of any felonies or misdemeanors relating to dishonesty and demonstrate good professional character in the content of references provided.

(b) Candidates for apprentice soil scientist certification shall meet the requirements of RSA 310-A:85 I. Candidates for certification as a wetland scientist shall meet the requirements established by RSA 310-A:84 II-a and II-b before a certificate shall be granted. Candidates for apprentice wetland scientist certification shall meet the requirements of RSA 310-A:85, II.

(c) The applicant shall appear for a personal audience with the board to clarify the information contained in his/her record if his/her record of education or experience are unclear, contradictory or incomplete.

Soil 302.02 Experience Requirements. Experience in the practice of soil science shall be determined pursuant to RSA 310-A:84 as follows:

(a) A minimum one year of the experience required pursuant to RSA 310-A:84 shall be actual field soil mapping;

(b) Teaching soil science courses or performing research in soil science or agronomy curriculum shall be considered the practice of soil science. Such teaching or research shall not be considered actual field soil mapping experience;

(c) Educational courses shall not be considered actual field mapping experience;

(d) Each advanced degree in a related field shall be counted as one year of experience with one year awarded for a Master's degree and 2 years awarded for a Ph.D. in a related field including geology and any other field in which the principles of soil science are applied. Advanced degrees shall not be considered actual field soil mapping experience;

(e) Employment by the United States Department of Agriculture (USDA), Natural Resources Conservation Service (NRCS) or other governmental agency as a soil scientist and active engagement in the practice of soil science as defined under RSA 310-A:76, IV, shall be considered experience pursuant to RSA 310-A:84. Each year of such employment shall be considered one year of experience;

(f) If experience is claimed under Soil 302.02(e), the applicant shall provide an affidavit stating:

- (a) The dates of employment;
- (b) The number of total acres soil mapped during such employment;
- (c) The county and state locations of soil mapping; and
- (d) The standards by which soil mapping was conducted.

(g) Actual field soil mapping experience shall be the practice of soil science as defined under RSA 310-A:76, IV.

(h) Soil maps prepared during the practice of soil science shall meet:

(1) The standards of the National Cooperative Soil Survey as follows:

- a. Soil Taxonomy, A Basic System of Soil Classification for Making and Interpreting Soil Surveys, second edition, published 1999;
- b. Keys to Soil Taxonomy, Eleventh Edition published, 2010;
- c. Official series descriptions, Soil Survey Staff Natural Resources Conservation Service, United States Department of Agriculture. Official Soil Series Descriptions, published, February 10, 2008;
- d. The Field Book for Describing and Sampling Soils, Version 2.0, published September 2002;
- e. Soil survey manual, Soil Survey Division Staff U.S. Department of Agriculture Handbook 18, published 1993; and
- f. NH Statewide Numerical Soil Legend, issue #9, dated April 2010; or

(2) The standards of Special Publication No.1 of the Society of Soil Scientists of Northern New England, High Intensity Soil Maps for New Hampshire published April 2008; or

(3) The standards of Special Publication No. 3 of the Society of the Soil Scientists of Northern New England, Site-Specific Soil Mapping Standards for New Hampshire and Vermont, published December 2006.

(i) Training as an apprentice soil scientist, where the apprentice is practicing soil science as defined under RSA 310-A:76, IV, shall be considered experience;

(j) Six or more soil maps shall be prepared to the standards under Soil 302.02 (h), all maps shall be submitted with a copy of the United States Geological Survey (USGS) mapping with site located and owner's name and address. The map shall include the name of the person who prepared the map, the supervisor's name, and date the map was prepared;

(k) The board shall request additional maps if the maps are incomplete or unclear or do not meet the standards of Soil 302.02 (h); and

(l) The board shall conduct field reviews of any of the supplied maps when it deems it necessary to clarify the applicant's experience upon permission of current landowner.

Soil 302.03 Additional Requirements. In order to indicate to the board competency to practice as a soil scientist, the candidate shall have had at least one soil course under RSA 310-A:84, I (a) and (b) in each of the following disciplines:

- (a) Soil genesis and classification;
- (b) Soil morphology; and
- (c) Soil mapping.

Soil 302.04 Experience Requirements. Experience in the practice of wetland science shall be determined as follows:

(a) A minimum one year of the experience requirement shall be actual field delineation of wetland boundaries pursuant to RSA 310-A:84, II-b (a); and

(b) Presentation of 6 or more wetland delineation plans with all wetlands classified according to Classification of Wetlands and Deepwater Habitats of the United States, FWS/OBS-79/31;

(c) One of the delineation plans shall include a complete assessment of functions and values using either the method for the Comparative Evaluation of Nontidal Wetlands in New Hampshire, published March 1991 or US Army Corps of Engineers, Highway Methodology Workbook Supplement, published September 2009, for candidates pursuant to RSA 310-A:84, II-a (a);

(d) Four of the delineation plans shall utilize the standards of the Corps of Engineers Wetland Delineation Manual, Technical Report 4-87-1, (January, 1987), Interim Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Northcentral and Northeast Region, U.S. Army Corps of Engineers, published October 2009, and the remainder shall meet the requirements of a state or federal regulatory agency; or

(e) A minimum of 3 years of the experience requirement shall be actual field delineation of wetland boundaries and the preparation of wetland maps, the classification of wetlands, the preparation of wetland function and value assessments, the design of wetland mitigation, the implementation of wetland mitigation, the monitoring of wetlands functions and values, and preparation of associated reports, pursuant to RSA 310-A:84, II-b (b); and

(f) Presentation of 18 or more wetland delineation plans classified according to Classification of Wetlands and Deepwater Habitats of the United States, FWS/OBS-79/31; for candidates pursuant to RSA 310-A:84, II-b, 12 of which shall utilize the standards of the Corps of Engineers Wetland Delineation Manual, Technical Report 4-87-1, (January, 1987) Interim Regional Supplement published October 2009 to the Corps of Engineers Wetland Delineation Manual: Northcentral and Northeast Region, U.S. Army Corps of Engineers, three of which must include a complete assessment of functions and values using either the method for the Comparative

Evaluation of Nontidal Wetlands in New Hampshire, published March 1991 or US Army Corps of Engineers, Highway Methodology Workbook Supplement, published September 2009 and the remainder shall meet the requirements of a state or federal regulatory agency.

Soil 302.05 Additional Requirements.

(a) All wetland delineation plans shall cite the standard which was utilized and the agency to which they were submitted.

(b) All wetland delineation plans shall be submitted with a copy of the USGS mapping with the site located and the owner's name and address.

(c) The board shall request additional plans and/or supporting documentation, including but not limited to field notes, reports or data forms if the plans are incomplete or unclear or do not meet the requirements of Soil 302.04 and 302.05.

(d) The board shall conduct field reviews of any of the supplied plans when it deems it necessary to clarify the applicant's experience upon permission of the current landowner.

(e) Teaching a college level credit course in wetland science according to the standards of Soil 302.04 shall be considered one year of experience.

(f) Wetland science performed as an apprentice wetland scientist under the direct supervision of a certified wetland scientist and according to the standards of 302.04 shall be considered experience.

(g) Candidates for wetland scientist pursuant to RSA 310-A:84, II-a (a) shall provide satisfactory evidence of a minimum of 24 credit hours in any of the following environmental sciences:

- (1) Botany;
- (2) Soil science;
- (3) Hydrology;
- (4) Wetland science;
- (5) Biology;
- (6) Forestry;
- (7) Wildlife;
- (8) Ecology;
- (9) Water resources;
- (10) Plant science;
- (11) Agronomy;
- (12) Geology;
- (13) Earth science;

(14) Wetland mitigation; or

(15) Assessments of functions and values.

(h) Candidates pursuant to RSA 310-A:84, II-a (b) shall provide satisfactory evidence of a minimum of 12 combined credit or non-credit semester hours in any of the environmental sciences list in Soil 302.05 (g).

(i) As set forth in RSA 310-A:84, II-a (a) and (b) 12.5 hours of the workshops in any of the environmental sciences referenced in 302.05 (g) shall be equivalent to one semester hour.

PART Soil 303 EXAMINATIONS

Soil 303.01 Examination Requirements for Soil Scientist Candidates.

(a) The examination shall consist of a written exam and a field exam.

(b) The soil scientist certification written examination shall be administered at the Joint Board Office, 121 South Fruit Street, Concord, New Hampshire in March and July.

(c) The board shall hold soil scientist field examinations in May and September. Examinations shall be given to all persons making application who have successfully passed the soil scientist written examination and whose application is complete and who has made payment of the established fee.

(d) The field exam shall be a test of the applicant's ability to prepare a soil map. The test shall consist of an actual field soil mapping pursuant to the standards of Soil 302.02 (h) (1) of a parcel of land selected by the board. The soil map prepared by the applicant shall be graded based upon a comparison of a master soil map of the parcel prepared by a consensus of at least 3 certified soil scientists and a majority vote of the board. The time allotted shall not exceed 6 hours. The grade shall be pass or fail.

Soil 303.02 Examination Requirements for Wetland Scientist Candidates.

(a) The examination shall consist of a written exam and field exam.

(b) The wetland scientist certification written examination will be administered at the Joint Board Office, 121 South Fruit Street, Concord, NH in March and July.

(c) The board shall hold wetland scientist field examinations in June and September on a parcel of land selected by the board. Examinations shall be given to all persons making application who have successfully passed the wetland scientist written examination and whose application is complete and who has made payment of the established fee.

(d) The field exam shall be a test of the applicant's ability to practice wetland science pursuant to Soil 302.04. The time allotted shall not exceed 6 hours. The grade shall be pass or fail.

Soil 303.03 Re-Examinations. An applicant for certification failing a field examination may apply for re-examination at the next scheduled examination period and shall be examined upon payment of an additional fee to cover the cost of the field examination. A candidate failing the examination 3 times shall furnish evidence of additional experience, study, or educational

credits equal to 6 semester hours of college credit before being allowed to proceed with further examination.

PART Soil 304 CREDENTIALS

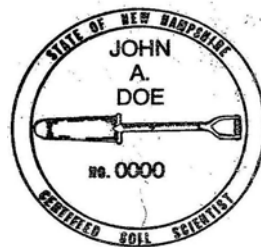
Soil 304.01 Certificate. An applicant for certification as a certified soil scientist or wetland scientist or an applicant for certification as an apprentice soil scientist or apprentice wetland scientist, who has met satisfactorily all the requirements of RSA 310-A and who has paid all of the fees, shall be issued a certificate by the board. The certified soil scientist or certified wetland scientist shall be issued a certificate authorizing the practice of soil science or wetlands science signed by the chairman and secretary of the board. The apprentice shall be issued a certificate entitled "Apprentice Soil Scientist" or "Apprentice Wetland Scientist" signed by the chairman and the secretary of the board.

Soil 304.02 Certified Soil Scientist or Wetland Scientist Pocket Cards. Biennially, the board shall issue a certification card, numbered to correspond with the soil scientist's or wetland scientist's assigned number, to each certified soil scientist or wetland scientist upon receipt of the biennial renewal fee and acceptance of renewal application. The card shall certify that the soil scientist or wetland scientist holds a certificate in good standing and is authorized to practice soil science scientist or wetland scientist to the date of expiration as shown on the card. No card shall be issued to an apprentice soil scientist or apprentice wetland scientist.

Soil 304.03 Soil Scientist Seal.

(a) Upon issuance by the board of a certificate to an applicant as a certified soil scientist, the certificate holder shall acquire an impression type seal or rubber stamp of the design approved by these rules and submit the seal to the board for approval. This seal shall bear the certificate holder's name and number as shown on the certificate.

Figure 3.1 Seal/Stamp



(b) The seal shall consist of 2 concentric circles, the outer circle having a diameter of 1.6 inches and an inner circle having a diameter of 1.4 inches. In the space between the 2 circles there shall be the words "State of New Hampshire" at the top of the circle and the words

"Certified Soil Scientist" at the bottom of the circle. In the space inside the inner circle a tile spade shall be depicted horizontally and centered. Below the image of the tile spade shall appear the certificate number of the soil scientist. Above the image of the tile spade shall appear the soil scientists name.

(c) All papers or documents involving the practice of soil science under this chapter when filed for public record, shall be dated and bear the signature and seal of the certified soil scientist who prepared or had responsibility for and approved them. It shall be a violation of these rules for the certified soil scientist to stamp or seal any documents with his/her seal after the certificate has expired. It shall be a violation of these rules for the certified soil scientist to stamp or seal any document not prepared by him/her personally or under his/her direct supervision.

Soil 304.04 Wetland Scientist Seal.

(a) Upon issuance by the board of a certificate to an applicant as a certified wetland scientist, the certificate holder shall acquire an impression type seal or rubber stamp of the design approved by these rules and submit the seal to the board for approval. This seal shall bear the certificate holder's name and number as shown on the certificate.

Figure 3.2 Seal/Stamp



(b) The seal shall consist of 2 concentric circles, the outer circle having a diameter of 1.6 inches and an inner circle having a diameter of 1.4 inches. In the space between the 2 circles there shall be the words "State of New Hampshire" at the top of the circle and the words "Certified Wetland Scientist" at the bottom of the circle. In the space inside the inner circle cross-section of a wetland boundary shall be depicted. The depiction shall include a view of trees, shrubs, shallow marsh and aquatic plants. Below the image of the wetland boundary shall appear the certificate number of the wetland scientist. Above the image of the wetland boundary shall appear the wetland scientist's name.

(c) All papers or documents involving the practice of wetland science under this chapter when filed for public record, shall be dated and bear the signature and seal of the certified wetland scientist who prepared or had responsibility for and approved them. It shall be a violation of these rules for the certified wetland scientist to stamp or seal any documents with his/her seal after the certificate has expired. It shall be a violation of these rules for the certified wetland scientist to stamp or seal any document not prepared by him/her personally or under his/her direct supervision.

PART Soil 305 REJECTIONS

Soil 305.01 Denial of Application. An application shall be denied if, after notice and an opportunity for hearing, there is a finding that:

(a) The applicant, or someone acting on the applicant's behalf, has submitted false information to the board in connection with the application;

(b) Evidence of past disciplinary action taken by another certification or licensing body or a professional society or association, indicates the applicant cannot be relied upon to practice competently, safely and honestly, or adhere to the standards of conduct required by Soil 500;

(c) Evidence of conviction of a felony or misdemeanor indicates the applicant cannot be relied upon to practice competently, safely and honestly, or adhere to the ethical standards required by Soil 500;

(d) Evidence of behavior that would violate the ethical standards of Soil 500, indicates the applicant cannot be relied upon to practice competently, safely and honestly, or adhere to the ethical standards required by Soil 500;

(e) The applicant failed to meet the educational and experience requirements of Soil 302;
or

(f) The applicant failed to successfully pass the examinations required pursuant to Soil 303.

CHAPTER Soil 400 CONTINUED STATUS

PART Soil 401 EXPIRATION AND RENEWALS

Soil 401.01 Renewal Notices. Renewal notices shall be sent to each certified soil scientist or certified wetland scientist every 2 years, at least one-month prior to date of expiration. The expiration date shall be the last day of the certificate holder's birth month.

Soil 401.02 Renewal of Certificate. The applicant for wetland or soil scientist renewal shall submit:

- (a) The renewal application supplied by the board;
- (b) The fee specified in Soil 301.04; and
- (c) Proof of completion of the continuing professional development requirements of Soil 403.

Soil 401.03 Renewal Application. The applicant shall supply the following information on the application form for certificate renewal:

- (a) The applicant's full name;
- (b) The applicant's business address and telephone number;
- (c) The applicant's home address and personal telephone number;
- (d) The applicant's e-mail address;
- (e) A statement indicating that the applicant has complied with the continuing education requirements of Soil 403;

(f) A statement indicating any disciplinary or legal action brought against the applicant as a natural scientist by any licensing/certification board or jurisdiction;

(g) A statement indicating that the applicant has adhered to the ethical and professional standards of Soil 500;

(h) A statement indicating whether the applicant has ever been convicted of any felony, or misdemeanor that has not been annulled by a court pursuant to RSA 651:5 and if not annulled, the name of the court, the details of the offense and the date of conviction and the sentence imposed;

(i) A representation that the applicant acknowledges that the provision of false information in the application recklessly provided is a basis for disciplinary action by the board; and

(j) The applicant's signature and the date signed.

PART Soil 402 DISCIPLINARY MATTERS

Soil 402.01 Initiation of Disciplinary Action. The board shall undertake misconduct investigations, settlements of misconduct allegations, or disciplinary hearings, in response to any information which reasonably suggests that a certificate holder has engaged in professional misconduct.

Soil 402.02 Disciplinary Sanctions.

(a) Other than immediate certificate suspensions authorized by RSA 541-A:30, III the board shall impose disciplinary sanctions only:

- (1) After prior notice and an opportunity to be heard; or
- (2) Pursuant to a mutually agreed upon settlement or consent decree.

(b) When the board receives notice that a certificate holder has been subjected to disciplinary action related to professional conduct by the licensing or certification authority of another jurisdiction, where the certificate or license was not reinstated, the board shall issue an order directing the certificate holder to demonstrate why reciprocal discipline should not be imposed in New Hampshire.

(c) In a disciplinary proceeding brought on the basis of discipline imposed in another jurisdiction the certificate holder shall be subject to any disciplinary sanction authorized by RSA 310-A:93,III after considering the presence of aggravating or mitigating circumstances.

(d) After a finding that misconduct has occurred, the board shall impose one or more of the disciplinary sanctions authorized by RSA 310-A:93, III after considering the presence of aggravating or mitigating circumstances.

(e) The following shall be considered aggravating circumstances:

- (1) The seriousness of the offense;

- (2) Prior disciplinary record;
- (3) Lack of willingness to cooperate with the board; and
- (4) Potential harm to public health and safety.

(f) The following shall be considered mitigating circumstances:

- (1) Absence of a prior disciplinary record;
- (2) Willingness to cooperate with the board;
- (3) Acknowledgment of his or her wrongdoing; and
- (4) The purpose of the rule or statute violated.

(g) No hearing date established in a proceeding conducted under Soil 402.02 shall be postponed at the request of the certificate holder unless the certificate holder also agrees to continue the suspension period, if any, pending issuance of the board's final decision.

(h) Copies of board orders imposing disciplinary sanctions and copies of all settlement agreements or consent decrees shall be sent to the licensing body of each state in which the certificate holder is certified or licensed and to such other entities, organizations, associations, or boards as are required to be notified under applicable state or federal law.

Soil 402.03 Administrative Fines

(a) Adjudicative procedures seeking the assessment of an administrative fine shall be commenced against any person subject to such fines under any provision of RSA 310-A when the board possesses evidence indicating that a violation has occurred.

(b) When persons subject to the board's disciplinary authority are directed to pay fines pursuant to Soil 402.02, such fines shall be assessed in accordance with the factors stated in Soil 402.02 (e), 402.02 (f) and the following additional considerations:

- (1) The cost of any investigation or hearing conducted by the board; and
- (2) The certificate holder's ability to pay a fine assessed by the board.

(c) Administrative fines shall not exceed the following amounts:

- (1) When no violation of the same type has occurred during a period of licensure within the 5 years preceding the board's notice to the respondent, the fine assessed shall not exceed \$200.00 per day or \$1,000.00 per offense, whichever is greater;

(2) When a single disciplinary infraction of the same type has occurred during a period of licensure within the 5 years preceding the board's notice to the respondent, the fine assessed shall not exceed \$200.00 per day or \$1,500.00 per offense whichever is greater; and

(3) When more than one disciplinary infraction of the same type has occurred during a period of licensure within the 5 years preceding the board's notice to the respondent, the fine assessed shall not exceed \$200.00 per day or \$2,000.00 per offense whichever is greater.

(d) In the case of continuing violations, a separate fine shall be assessed for each day the violation continues.

(e) A single course of continuing conduct shall be treated as a single violation for purposes of Soil 402.03 (c), (1), (2) and (3).

Soil 402.04 Procedures for Assessing and Collecting Fines.

(a) Payment of a fine shall be included among the options available for settling disciplinary allegations, and shall be included among the types of disciplinary sanctions imposed after notice and hearing.

(b) In cases where the board initially intends to limit disciplinary sanctions to an administrative fine, the board shall issue a "notice of apparent liability" describing the alleged offense, stating the amount of the assessed fine, and notifying the alleged offender that he or she shall pay or compromise the fine by a certain date or request that an administrative hearing be held. If a hearing is requested, the notice of apparent liability shall be withdrawn and a notice of hearing shall be issued. In such hearings, the board's disciplinary options shall not be limited to the assessment of an administrative fine.

(c) Nonpayment of a fine by a certificate holder or respondent in contravention of an order, agreement or promise to pay, shall be a separate ground for discipline by the board and a basis for denying a subsequent certificate and renewal application and a basis for judicial action seeking to collect the fine.

PART Soil 403 CONTINUING EDUCATION

Soil 403.01 Renewal Requirements

(a) Each certified wetland or soil scientist shall obtain at least 24 hours of continuing education hours each biennium as a condition of biennial license renewal.

(b) All 24 continuing education hours shall be taken during the biennium preceding the applicant's expiration date.

(c) A renewal application shall not be accepted for filing unless the applicant indicates on the renewal application, and under penalty of unsworn falsification, that he or she has completed the minimum required hours of approved education required by Soil 403.01 (a).

(d) New certified wetland or soil scientists shall obtain 12 continuing education hours for their first biennial renewal period.

Soil 403.02 Continuing Education Hour Requirements. Continuing education hours shall meet the following criteria:

(a) Continuing education activities shall be relevant to the practice of soil or wetland science or no credit shall be awarded. Such continuing education activities shall include technical, ethical, or managerial content;

(b) Two hours of continuing education shall be in the area of professional ethics;

(c) The content of each presentation shall be well organized and presented in a sequential manner;

(d) There shall be a provision for individual participant course/program registration including information required for record keeping and reporting; and

(e) Self directed learning activities shall include a written instrument which tests the certified wetland or soil scientist's comprehension of the content of that course or program.

Soil 403.03 Continuing Education Hours Continuing education hours shall be credited as follows:

(a) A maximum of 2 continuing education hours shall apply to activity on a state or national board of licensure;

(b) Courses/programs awarded one or more college semester credit hours, with a passing grade where grades are issued, shall equal 15 continuing education hours per credit hour based on course credit established by the college or university;

(c) Courses/programs awarded one or more college quarter hours, with a passing grade where grades are issued, shall equal 10 continuing education hours per credit hour based on course credit established by the college or university;

(d) Courses or programs awarded one or more continuing education units by the course sponsor, with a passing grade where grades are issued, shall equal 10 continuing education hours per continuing education unit;

(e) Credit shall be awarded for one hour of continuing education in course work, seminars, or professional technical presentations made at meetings, conventions, or conferences for each hour of attendance. Attendance at qualifying programs presented at professional and/or

technical society meetings shall earn continuing education credit for the actual time of each program;

(f) Teaching or instructing qualifying courses or seminars or making presentations at technical meetings shall earn continuing education credit at twice that of participants. Teaching credit shall be valid for teaching a course or seminar for the first time only. Teaching credit shall not apply to full-time faculty;

(g) Each professional journal, published paper, or published soil or wetland science textbook pursuant to Soil 403.02 shall equal 8 continuing education hours;

(h) Active participation in professional or technical societies shall equal one continuing education hour and shall require that a certified soil or wetland scientist serve as an officer and/or actively participate in a committee of the organization. Continuing education hours shall not be earned until each year of service is completed and shall be limited to 2 continuing education hours per organization;

(i) Field trips organized and run by professional and/or technical societies or in conjunction with meetings, conventions, or conferences shall be awarded one continuing education hour for each hour of duration, up to 8 continuing education hours per day.

(j) Two hours of self-directed learning activity through the use of audio or video tapes shall equal one continuing education hour;

(k) Training apprentice soil or apprentice wetland scientists shall equal 3 continuing education units per year; and

(l) Continuing education hours shall not be recognized for any repeat program attended or completed.

Soil 403.04 Record Keeping.

(a) The certified wetland or soil scientist shall maintain records to be used to support continuing education hours claimed.

(b) Records required shall contain attendance verification records in the form of completion certificates or other documents supporting evidence of attendance such as:

- (1) Signed attendance receipts;
- (2) Paid receipts;
- (3) A copy of a listing of attendees signed by a person sponsoring the course or program or the course/program provider, or
- (4) Certificates of attendance from the sponsoring organization.

(c) The applicant shall retain attendance verification records for a period of at least 4 years. Such documentation shall be made available to the board for random audit and/or

verification purposes. Documentation shall support continuing education hours claimed. Failure to provide documentation for audit verification shall result in disciplinary action.

(d) Not less than 10 % of the certified soil and wetland scientists shall be randomly selected each year for audit by the board for compliance with Soil. 403.01.

Soil 403.05 Exemption A certified wetland or soil scientist shall be exempt from the continuing education requirements for serving on temporary active duty in the armed forces of the United States for a period of time exceeding 120 consecutive days.

Soil 403.06 Waiver of Professional Development Hours Deadline. A certified soil or wetland scientist may request a waiver of continuing education hours deadlines, as follows:

(a) A petition requesting a waiver shall be filed at least 30 days before the expiration of the biennial continuing education period in question;

(b) Late filing shall be justified by a showing of good cause that includes serious accident, illness or other circumstances beyond the control of the certified soil or wetland scientist which actually prevents the certified soil or wetland scientist from satisfying the continuing education requirements;

(c) Relevant supporting documentation from the certified soil or wetland scientist's physician or medical professional shall be furnished to the board when necessary for a fair and informed determination by the board; and

(d) A waiver petition shall include a specific timetable for completing specific courses, which will meet the petitioner's continuing education unit deficiency.

Soil 403.07 Noncompliance. Failure to submit documentation required per Soil 403.04 which establishes that said requirements were so completed, shall after notice and opportunity for hearing, result in disciplinary action including license suspension or revocation unless a waiver petition has been timely filed and duly granted by the board.

Soil 403.08 Incomplete Applications or Denial of Renewal.

(a) The board shall notify the applicant of any deficiencies in the renewal application within 60 days of acceptance for filing. Failure to remedy the deficiencies within 60 days shall result in denial of the renewal application. An application shall be considered on file with the board when all deficiencies are corrected.

(b) Renewal shall be denied if, after notice and an opportunity for hearing, there is a finding of:

- (1) Noncompliance with the continuing education requirements of Soil 403.01(a);
- (2) Any unethical act for which discipline shall be imposed under Soil 500;
- (3) Reasons for which an initial application would have been denied; or

- (4) Failure to furnish materially complete or materially accurate information on a renewal license application.

CHAPTER Soil 500 ETHICAL STANDARDS

PART Soil 501 RULES OF PROFESSIONAL CONDUCT

Soil 501.01 Purpose and Scope.

(a) To establish and maintain a high standard of integrity, skills and practice in the profession of soil science or wetland science, the following rules of professional conduct shall be binding upon every person holding a certificate of soil science or wetland science and on all partnerships or corporations or other legal entities authorized to offer or perform the practice of soil science or wetland science in this state.

(b) All persons certified under RSA 310-A shall be deemed to be familiar with provisions of Soil 500.

Soil 501.02 Obligation To Obey.

(a) The ethical standards set forth in this part shall bind all certified wetland scientists and soil scientists, and violation of any such standard shall be a basis for imposing disciplinary sanctions. Conduct proscribed by these ethical standards, when performed by an uncertified person, or during a prior period of certification, shall also be a basis for denying an application or issuing a restricted certificate.

(b) All persons certified under RSA 310-A shall be considered to have knowledge of the existence of these rules of professional conduct, and shall be deemed to be familiar with their several provisions. Such knowledge shall encompass the understanding that the practice of soil science or wetland science is a privilege, as opposed to a right, and the certified soil scientist or wetland scientist shall be forthright and candid in their statements or written response to the board or its representatives on matters pertaining to professional conduct.

(c) Certificate holders shall submit only truthful and correct information in any application or other document file with or statement made to the board.

(d) Certificate holders shall inform the board of a principal business/home address to which all official board communications should be directed, and also of all addresses where he/she is practicing. The establishment of a business/home address or the change or abandonment of a business/home address shall be reported to the board within 30 days.

Soil 501.03 Standards of Conduct.

(a) The certified soil and wetland scientist shall hold paramount the safety, health and welfare of the public as follows:

- (1) Perform his/her services only in areas of his/her competence;
- (2) Issue statements only in an objective and truthful manner;
- (3) Act for each employer or client as faithful agents or trustees;
- (4) Refrain from deceptive acts;

(5) Conduct themselves honorably, responsibly, ethically, and lawfully so as to enhance the honor, reputation, and usefulness of the profession;

(6) Undertake to perform soil or wetland science assignments only when qualified by education or experience in the specific technical field of soil or wetland science involved;

(7) Accept an assignment requiring education or experience outside of his/her own field of competence, but only to the extent that his/her services are restricted to those phases of the project in which he/she is qualified. All other phases of such project shall be performed by qualified associates, consultants or employees;

(8) Not affix his/her signature or seal to any map, plan or document dealing with subject matter for which he/she lacks competence by virtue of education or experience, nor to any such map, plan or document not prepared under his/her direct supervisory control; and

(9) Not sell or donate the use of a seal to anyone, recognizing that the seal indicates the soil scientist's or wetland scientist's personal responsibility for the work bearing the seal.

(b) The certified soil and wetland scientist shall issue public statements only in an objective and truthful manner, as follows:

(1) Be objective and truthful in all professional reports, statements, or testimony and include all relevant, pertinent and required information in such reports, statements or testimony;

(2) When serving as an expert or technical witness before any court, commission, or other tribunal, express an expert opinion only:

a. When it is founded upon adequate knowledge of the facts in issue;

b. Upon a background of technical competence in the subject matter; and

c. Upon honest conviction of the accuracy and propriety of his/her testimony;

(3) Issue no statements, criticisms, or arguments on soil and wetland science matters connected with public policy which are influenced or paid for by an interested party, or parties, unless he/she has prefaced his/her comment by explicitly identifying him/herself by disclosing the identities of the party or parties on whose behalf he/she is speaking;

(4) Express an opinion or conclusion only upon matters of established fact or direct observation and clearly distinguish professional judgment or opinions from matters of fact or record;

(5) Not attempt to injure, maliciously or falsely, directly or indirectly, the professional reputation, prospects, practice or employment of another; and

(6) If he/she believes that another soil or wetland scientist is guilty of misconduct or illegal practice, he/she shall present such information to the board in writing.

(c) The certified soil and wetland scientist shall avoid conflicts of interest; as follows:

- (1) Promptly inform his/her employer or client of any business associations, interests, or circumstances, which could influence his/her judgment, or the quality of his/her services;
- (2) Not accept compensation, financial or otherwise, from more than one party for services pertaining to the same project, unless the circumstances are fully disclosed to, and agreed to, by all interested parties;
- (3) Not solicit or accept financial or other valuable considerations from material or equipment suppliers for specifying their products;
- (4) Not solicit or accept gratuities, directly or indirectly, from contractors, their agents, or other parties dealing with his/her client or employer in connection with work for which he/she is responsible;
- (5) When in public service as a member, advisor, or employee of a governmental body or department, not participate in considerations or actions with respect to private soil or wetland science services provided by him/her or by his/her organization;
- (6) Not solicit or accept a soil or wetland science contract from a governmental body on which a principal or officer of his/her organization serves as a member;
- (7) Not divulge information given in confidence by a client or employer except as required by law, directly or indirectly, in any way that would violate the confidence of the employer or client;
- (8) Not plagiarize oral or written communications or knowingly accept credit for work rightfully due another person; and
- (9) Reveal to clients, regulators, and/or the public any conflict of interest or circumstances which may interfere with full representation of the scientific facts or their professional opinions.

(d) The certified soil and wetland scientist shall solicit or accept work only on the basis of his/her qualifications; as follows:

- (1) Not offer to pay, either directly or indirectly, any commission, political contribution, gift, or other consideration in order to secure work, exclusive of securing salaried positions through employment agencies;
- (2) Compete for employment on the basis of professional qualification and competence to perform the work;

- (3) Not solicit or submit proposals for professional services containing false, fraudulent, misleading, deceptive or unfair statement or claim regarding the cost, quality or extent of services to be rendered;
 - (4) Not falsify or permit misrepresentation of his/her, or his/her associates', academic or professional qualifications;
 - (5) Not misrepresent his/her degree of responsibility in or for the subject matter of prior assignments;
 - (6) Not distribute brochures or other presentations incident to the solicitation of employment which shall misrepresent pertinent facts concerning employers, employees, associates, joint ventures, or his/her or their past accomplishments with the intent and purpose of enhancing his/her qualifications and his/her work; and
 - (7) Limit public advertising to a description of the services available;
 - (8) Act for the client or employer as a finder of facts in developing soil maps and wetland maps and related material and shall provide a product that accurately depicts soils and wetlands as a natural body on the landscape;
 - (9) Advise the client of the level of accuracy and limitations of the soil maps and wetland maps relative to the intended use; and
 - (10) Indicate the standards of classification and mapping used.
- (e) The certified soil and wetland scientist shall perform his/her services in an ethical and lawful manner, as follows:
- (1) Not knowingly associate with or permit the use of his/her name or firm name in a business venture by any person or firm which he/she knows, or has reason to believe, is engaging in business or professional practices of a fraudulent or dishonest nature;
 - (2) Cooperate with another soil scientist or wetland scientist with an interchange of information where such interchange does not conflict with confidential matters between the soil scientist or wetland scientist and his/her client;
 - (3) Not attempt to injure another soil or wetland scientist's reputation, prospects, practice or employment;
 - (4) If he/she has knowledge or reason to believe that another person or firm may be in violation of any of these provision or provisions of RSA 310-A, present such information to the board in writing and cooperate with the board in furnishing such further information or assistance as may be required by the board; and
 - (5) Cooperate with investigations and requests for information from the board and the boards representatives.

PART Soil 502 VOLUNTARY CERTIFICATE SURRENDER

Soil 502.01 Procedure for Surrendering Certificate Any person holding a certificate may voluntarily surrender that certificate by returning it to the board accompanied by a signed letter stating that he/she intends to surrender his/her certificate.

Soil 502.02 Effect of Voluntary Certificate Surrender.

(a) A certified soil and wetland scientist who voluntarily surrenders a certificate shall retain no right or privilege to practice soil or wetland science in New Hampshire unless specifically set forth in a board order or settlement agreement authorizing the voluntary surrender. Unless otherwise provided by the board, a certified soil and wetland scientist who reapplies for

certification in New Hampshire after a voluntary surrender shall have the burden of proving compliance with all of the requirements then in effect for new applicants, including professional character requirements.

(b) Surrender or non-renewal of a certificate shall not preclude the board from investigating or completing a disciplinary proceeding based upon the certified soil or wetland scientist's professional conduct while the certificate was still in effect. Such investigations and proceedings shall be handled in the same manner as other disciplinary investigations and proceedings.

Soil 502.03 Voluntary Surrender When Misconduct Allegations are Pending.

(a) A certified soil and wetland scientist who wishes to surrender his/her certificate as part of a settlement of pending misconduct allegations shall make a written settlement offer to the board before the close of the record in a disciplinary hearing.

(b) Any settlement agreement reached under (a), above, shall include the following concessions:

(1) That the certified soil and wetland scientist surrender has occurred in settlement of pending disciplinary charges; and

(2) That the pending disciplinary allegations shall be issues to be resolved in any future application the certified soil and wetland scientist may submit in New Hampshire.

(c) The board shall decline to accept a settlement agreement under (a), above, if the board believes the certified soil and wetland scientist has declined to disclose material information concerning the alleged misconduct or has refused to stipulate to the truth of specific material facts concerning the alleged misconduct which would be necessary to protect the public interest in the event the individual subsequently reapplies for a certificate.

(d) A certified soil and wetland scientist's stipulation of facts shall be exempt from public disclosure to the extent permitted by RSA 91-A if the public portion of the settlement agreement or surrender document expressly states that a separate, confidential stipulation of facts is on file with the board.

(e) The fact of certificate surrender and the terms of any settlement agreement pertaining thereto shall be distributed to all relevant licensing authorities and professional societies in the same manner as a final decision containing specific finding of professional misconduct